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13 UNITED STATES DISTRICT COURT
14
15 NORTHERN DISTRICT OF CALIFORNIA

16 NICOLETTE HAHN NIMAN and WILLIAM
17 NIMAN,

No.

18 Plaintiffs,
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20 v.
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22 UNITED STATES DEPARTMENT OF THE
23 INTERIOR, DOUG BURGUM, in his capacity as
24 Secretary of the United States Department of the
25 Interior, UNITED STATES NATIONAL PARK
26 SERVICE, and JESSICA BOWRIN, in her
27 capacity as Acting Director of the National Park
28 Service,

Defendants.

COMPLAINT

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INTRODUCTION

1. The Point Reyes peninsula in Marin County has been in ranching and agriculture for about 200 years—since well before California became a State. The produce, meat, and dairy produced in Point Reyes is recognized as some of the finest in the world. Point Reyes is, and can continue to be, a model for healthy, sustainable, environmentally beneficial, regenerative ranching and agriculture. Congress established the Point Reyes National Seashore in part to preserve its ranching and agricultural heritage, and specifically authorized Defendants to allow those uses to continue even if the original ranchers and farmers decide to leave. Defendants, however, have refused to consider allowing farming and ranching to continue in Point Reyes on the lands previously worked by the farmers and ranchers who recently decided to leave. Defendants' refusal to consider allowing farming and ranching to continue, even though Congress has specifically authorized Defendants to do so, violates the law and will cause significant and irreparable harm to this agricultural heritage, to the environment, to the community, to the regional food supply, and to the health of the nation. This Court should correct Defendants' violations of the law and prevent the harms their actions are causing.

JURISDICTION

2. This Court has jurisdiction over this action pursuant to 5 U.S.C. § 702 (judicial review of agency action); 42 U.S.C. §§ 4321, et seq. (National Environmental Policy Act); 16 U.S.C. § 1456 (Coastal Zone Management Act); and 28 U.S.C. § 1331 (civil action arising under the laws of the United States).

3. Plaintiffs timely submitted comments during the NEPA process, where and when such comments were allowed, thereby exhausting all administrative remedies and satisfying their duties under NEPA before filing this suit. There is no available administrative appeal from the decision challenged here.

4. Venue properly lies in this court under 28 U.S.C. § 1391(e), since all defendants are officers or employees, or agencies, of the United States, a substantial part of the events and omissions giving rise to Plaintiffs' claims occurred in this judicial district, and the property that is the subject of this action is situated in this judicial district.

DIVISIONAL ASSIGNMENT

5. Pursuant to Civil Local Rule 3-2(d), there is a basis for assigning this civil action to the San Francisco Division, as a substantial part of the events and omissions giving rise to Plaintiffs' claims occurred in Marin County, California, and Plaintiffs reside and do business in Marin County, California.

PARTIES

6. Plaintiffs Nicolette Hahn Niman and William Niman (the Nimans or Niman family) are a husband and wife ranching team who, together with their two sons, raise grassfed cattle and heritage breed chickens on a ranch and residence in the Point Reyes National Seashore (known by NPS as allotments 31a and 31b, or the “Niman RUO” and “Commonweal”). They sell their meat locally throughout the Bay Area, and advocate nationally and internationally for regenerative farming practices, especially for well-managed grazing, and for the importance of animal-derived foods in the human diet. Bill is the founder of the sustainable meat company, Niman Ranch, and co-founder of a grassfed beef and pasture-raised poultry company. Nicolette worked previously as the Senior Attorney for the environmental organization Waterkeeper Alliance, where she led the group’s campaign to reform the livestock industry. She is co-founder of BN Ranch and author of two books about sustainable meat production, *Righteous Porkchop: Finding a Life and Good Food Beyond Factory Farms*, and *Defending Beef: The Case for Sustainable Meat Production*, as well as numerous articles and op-eds about ecological food production in *The New York Times*, *The Wall Street Journal*, *The Atlantic*, *The Los Angeles Times*, *The Earth Island Journal*, and many other publications. The Nimans are not parties to the recent settlement agreement with The Nature Conservancy in which most other Point Reyes ranchers voluntarily agreed to a buyout and departure from their leases on Pt. Reyes.

7. Plaintiffs have spent years working to protect sustainable and responsible ranching and agriculture in Point Reyes National Seashore, adjacent areas in Marin County, and across the country, whether practiced by themselves or by others. Plaintiffs' interest in sustainable and responsible ranching and agriculture, whether practiced by themselves or by others, is directly harmed by the decisions challenged in this complaint.

8. Defendants' violations of law alleged in this complaint have injured and will continue to injure the aesthetic, conservation, scientific, recreational, educational, economic, historic, cultural, environmental, procedural, nutritional, and other interests of Plaintiffs. Defendants' decision to not offer historic ranching and agricultural lands for continued ranching and agriculture, and to constrain the options available to Plaintiffs for continued ranching and agriculture on their ranches, harms Plaintiffs' use and enjoyment of Point Reyes and the adjacent agricultural lands in Marin County. The decision to not offer such lands for continued ranching and agriculture prevents Plaintiffs and other members of the public from accessing and enjoying the pastoral qualities of the Seashore that Congress sought to protect. These are actual, concrete injuries caused by Defendants' violations of law, and the judicial relief sought would remedy, in whole or in part, these injuries. Plaintiffs have no other adequate remedy at law.

9. Defendant Doug Burgum is the Secretary of the U.S. Department of Interior, an agency of the United States. He is named as a defendant in his official capacity.

10. Defendant U.S. Department of the Interior is an agency of the United States, within the meaning of 5 U.S.C. § 701(b), charged with managing the public lands and resources in accordance with and in compliance with federal laws and regulations.

11. Defendant Jessica Bowrin is the Acting Director of the U.S. National Park Service, an agency of the United States. She is named as a defendant in her official capacity.

12. Defendant U.S. National Park Service (NPS) is an agency of the United States, within the meaning of 5 U.S.C. § 701(b), charged with managing the public lands and resources in accordance with and in compliance with federal laws and regulations.

BACKGROUND

Facts

13. Point Reyes was initially studied as a national park site in the 1930s, but efforts did not get serious until the 1950s, when NPS Regional Chief of Recreation and Planning George Collins spearheaded a drive to create the National Seashore.

14. As a Seashore, the primary focus was to provide recreation opportunities close to the metropolitan Bay Area, but even in the earliest discussions, a key concern was the possible effects of

1 establishing a park on the local agricultural economy. As early as 1958, in a letter to Senator Clair
 2 Engle (one of the initial sponsors of the legislation), then-president of Marin Conservation League
 3 Caroline Livermore wrote: “As true conservationists we want to preserve dairying in this area and
 4 will do what we can to promote the health of this industry which is so valuable to the economic and
 5 material well being of our people and which adds to the pastoral scene adjacent to the proposed
 6 recreation project.” Letter from Mrs. Normal B. Livermore to Hon. Clair Engle, July 28, 1958, Anne
 7 T. Kent California Room, Marin County Library.

8 15. In 1960, California Senator Clair Engel and Representative Clem Miller introduced
 9 legislation to create a new “national seashore” in Point Reyes, with a design that would retain
 10 existing agricultural uses even under federal ownership. California’s other Senator, Thomas Kuchel,
 11 described the “novel” concept as one to “maintain the character” of the “historic” area in the “public
 12 interest”, which included protecting the historic ranches. House Hearing [etc.] on S.2428, 86th
 13 Congress, 2d Session (April 14, 1960).

14 16. In 1961, NPS incorporated these concepts into planning documents for the Point
 15 Reyes National Seashore. NPS explained that land uses in a national seashore should be “less
 16 restrictive” than in a national park. NPS proposed that “about half the dairy and beef cattle ranches
 17 would continue operation under lease agreements” so as to “preserve” the “scenic pastoral qualities”
 18 of that portion of the seashore. National Park Service, Proposed Point Reyes National Seashore:
 19 Land Use Survey & Economic Feasibility Report (February 1961).

20 17. Later that year, the Secretary of the Department of the Interior, Stuart Udall, testified
 21 to Congress that “[m]ost of the dairy ranches could continue operation” and would “provide both
 22 recreation and economic value to the seashore.” Senate Hearing [etc.] on S.476 (“A Bill To Establish
 23 The Point Reyes National Seashore In The State Of California, And For Other Purposes”), 87th
 24 Congress, 1st Session (March 28, 30, 31, 1961).

25 18. In 1962, Congress adopted NPS’s proposals by passing the Point Reyes National
 26 Seashore Act. Pub. L. No. 87-657, 76 Stat. 538 (1962), codified at 16 U.S.C. §§ 459c et seq. The
 27 purpose of that Act was to “save and preserve, for purposes of public recreation, benefit, and
 28 inspiration, a portion of the diminishing seashore of the United States that remains undeveloped.” 16

1 U.S.C. § 459c. The House Report accompanying this legislation recognized that the “expanses of
 2 pasturelands” played an important role “in preserving the beauty of the area.” H. Rep. 87-1628. No
 3 one testified at any time in favor of shutting down existing ranching, dairying, or farming operations.
 4 Instead, the legislation reflected a strong commitment to retaining and sustaining existing
 5 agricultural uses, as they served the public recreational, inspirational, and other beneficial purposes
 6 that the new national seashore was created to save and preserve.

7 19. After the establishment of the Point Reyes National Seashore, and the acquisition
 8 (under threat of eminent domain) by the federal government of the lands there, the Department of the
 9 Interior, through the National Park Service, authorized agricultural and ranching activities to
 10 continue. National Park Service, D.S. (Dewey) Livingston (1993), *Ranching On The Point Reyes
 11 Peninsula: A History of the Dairy and Beef Ranches Within Point Reyes National Seashore, 1834-*
 12 *1992*, at pp. v, 298, 346.

13 20. In 1976, Congress passed a law relating to tule elk in California, including Point
 14 Reyes. Pub. L. 94-389 (1976). The Secretary of the Department of the Interior has not complied with
 15 his obligations under that law, as further described below.

16 21. In 1978, Congress amended the 1962 Act to make clear that the Secretary of the
 17 Interior has authority to lease, for agricultural or other purposes consistent with the 1962 Act, any
 18 federally owned lands in the Point Reyes National Seashore that was agricultural land prior to the
 19 federal government’s acquisition. Pub. L. 95-625 § 318, amending 16 U.S.C. § 459c-5(a). The only
 20 condition is that such lands be offered first to those ranchers who owned the land at the time the
 21 federal government acquired it. *Id.* **Even if those original ranchers ever decided to leave Point
 22 Reyes, the Secretary of the Interior still has the express statutory authority to lease those lands
 23 to a new generation of farmers and ranchers.**

24 22. In July 2017, the Acting Superintendent of the Seashore nominated for inclusion on
 25 the National Register of Historic Places the Point Reyes Dairy Ranches Historic District. The Point
 26 Reyes Dairy Ranches Historic District is comprised of 17 ranch areas and covers most of the Point
 27 Reyes Peninsula. (The Niman ranch is not included within this Historic District.)

28 23. The Point Reyes Dairy Ranches Historic District is listed as historically significant

because of its association with the history of dairy ranching in Marin County from the mid-1800s through the 1950s and because it contains buildings and structures that reflect that history.

24. NPS then initiated a process to update its general management plan for the Seashore.

25. In support of that update, NPS published a draft environmental impact statement (EIS) under the National Environmental Policy Act (NEPA) in August 2019, and a final EIS in September 2020 (2020 EIS) that studied six alternatives for managing the Seashore.

26. None of the alternatives examined in the 2020 EIS studied leasing lands within the Seashore for agricultural or ranching purposes to people other than those currently farming or ranching those lands, so that farming and ranching could continue even if those currently working such lands elected to leave, despite Congress expressly authorizing such leases. 16 U.S.C. 459c-5(a).

27. The Nimans submitted comments on the draft 2020 EIS and general management plan update process. They supported continued ranching in the Seashore.

28. The Niman comment letter explained their interest in “keeping agriculture in the Seashore” as follows:

Regenerative Agriculture is the Future

Much of the criticism launched at the National Park Service for allowing ranching to continue in the Seashore has suggested that agriculture, especially of animals, is inherently destructive and extractive, often also suggesting that we all know we should be eating less dairy and meat. Implicitly these people argue that the world, in general, as well as the Seashore, specifically, would be a better place if there were fewer people raising livestock. We vigorously refute every aspect of these claims. They vastly oversimplify complex questions of diet, health, and the environment and ignore the vital role local farm people play in communities. In truth, farmers and ranchers can and must be essential allies in the burgeoning movement to re-make our food system into one that produces healthy, nutrient rich food and is ecologically regenerative. And while there are people whose health might benefit from reducing their meat consumption there are others whose health would improve if they ate more meat.

These critics dismiss regenerative agriculture as impractical, unfeasible, or even impossible. Animal rights activists, and conventional agriculture and its allies -- fossil fuel and chemical companies, big food companies, and the pharmaceutical industry -- all want people to believe this. But ranchers in the Seashore and elsewhere are demonstrating that regenerative agriculture is not only real it is also the most financially viable and ecologically sound option

1 for the food system. Successful real world examples of regenerative
 2 agriculture with livestock have been set forth in great detail by Gabe Brown in
Dirt to Soil (2018), David Montgomery in *Growing a Revolution* (2017),
 3 Charles Massy in *Call of the Reed Warbler* (2018), among many others, which
 4 powerfully demonstrate the potential for widespread adoption of regenerative
 practices.

5 The best regenerative agriculture models, including many of the ranches in the
 6 Seashore, have strong connections to surrounding communities. In her several
 7 books and her film, *The Economics of Happiness*, Helena Norberg-Hodge
 urges that the most important thing people can do to protect the earth is to re-
 8 localize our economies, including with respect to food and farming. It is our
 9 very disconnectedness from our surrounding landscapes, our alienation from
 10 the people around us, and from the sources of our food and fiber that causes so
 11 many modern ills, Norberg-Hodge contends. Vibrant health - both mental and
 12 physical - is closely related to our connectedness to the people, community,
 13 and nature surrounding us. Keeping agriculture in the Seashore maintains a
 longstanding intricately woven community fabric in West Marin between
 humans, animals, nature, and our food. The people who live and work on
 these ranches not only generate our food they are members of our churches
 and civic clubs, have children at our schools and on our soccer teams, and
 frequent our local businesses. They are vital to our community cohesion.

14 Ranches are equally important to this region's environment; animal impact is
 15 essential to ecosystem function.

16 According to an ecology textbook used at UC Berkeley, *California
 17 Grasslands: Ecology and Management*, 6,000 years ago California was home
 to some 19 species of browsing and grazing creatures. They, together with
 18 other large beasts who preyed on them, created and maintained California's
 vast open areas and diverse, biologically active soils. Without the once-
 abundant large predators, (which included grizzlies, wolves, lions, and tigers),
 it is no longer feasible for this urban-fringe area to maintain significant
 20 populations of large wild grazing animals. Domesticated grazing animals,
 however, can serve as the proxies for those disappeared wild grazers and
 browsers. Indeed, for this ecosystem to function at its best, large populations
 21 of grazing animals are necessary.

23 A large body of scientific evidence shows that grazing, including by cattle,
 enhances biodiversity, from soil micro-organisms to megafauna. Grazing
 24 animals' hooves help press seeds into the soil, their mouths clip vegetation,
 stimulating plant growth and helping later-sprouting species of plants to
 germinate, and their manure and urine provide nutrients, moisture, and
 25 organic matter that help soil biology. For example, a long-term study by
 University of Nebraska researchers published in 2004 found more plant
 diversity in areas with grazing than in areas where grazing had been excluded.
 The 2016 textbook by Stanford biology professor Harold Mooney, *Ecosystems
 26 of California* states: 'A growing body of research shows that livestock grazing
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1 can enhance biodiversity. To a surprising degree, this research comes from
 2 cases in which, as part of conservation efforts, livestock grazing was removed,
 and subsequently, species or habitats of interest disappeared.'

3 Grassland birds are among the most rapidly disappearing of all types of
 4 wildlife, largely because of losses of farming and ranching land and
 convers[i]on of grazing areas to croplands. Work by Audubon Society, Point
 5 Blue and others have shown that well-managed ranches are essential partners
 i[n] stemming the decline of bird populations. For example, recent analyses
 6 show how grazing benefits bird populations. See, e.g. 'What's good for the
 herd is good for the bird,' Beef Magazine in 2019.

7 Some have urged that the greenhouse impact of livestock alone warrants
 8 getting rid of the Seashores ranches. But livestock's connection to climate
 9 change has been wildly mis-stated by various interest groups who are using
 10 climate change to advance their own agendas. Animal rights groups and some
 11 environmental groups have claimed that changing your diet (by reducing or
 12 eliminating beef) is the single most important thing you can do to help the
 13 climate. In the particularly ridiculous film Cowspiracy, the utterly specious
 14 claim was even made that more than half of greenhouse gases come from
 cattle. According to the U.S. Environmental Protection Agency, however, the
 real number is around 2 - 3% for all grazing animals (including cattle, sheep,
 goats, bison, and yaks).

15 While it is both admirable and valuable for Americans to make wise personal
 16 daily choices, those decisions have far less impact on the climate than does
 17 US policy. This point has been made repeatedly by climate leaders like Bill
 McKibben, and is explained by David Wallace-Wells in his recent book, *The
 Uninhabitable Earth: Life After Warming* (2019). Wallace-Wells calls
 18 personal dietary choices a drop in the bucket. (See interview with William
 Branigan, PBS, March 1, 2019).

19 The true impact of beef related to climate is much more accurately understood
 20 when compared with other foods.

21 The work of Dr. Michael Lee (Head of Sustainable Agriculture Sciences,
 22 Rothamsted Research, UK) shows that when the nutritional value of food is
 considered, beef has a comparatively small climate impact.

23 Most important, recent peer-reviewed research strongly supports the case
 24 made in *Defending Beef* that well-managed grazing provides myriad
 25 ecosystem services, even including a net benefit to the climate by sequestering
 large amounts of atmospheric carbon. This research includes the following:

26 **Journal of Soil and Water Conservation*, April 2016: A collection of well-
 27 known rangeland experts, sustainable agriculture experts, and soil scientists
 28 assemble to argue that good grazing builds soil carbon, removes substantial
 carbon from the atmosphere, and is better for the climate than crop

1 production. They estimate 1.2 tons of carbon per acre per year (1.2 tC/ac/yr)
 2 drawdown via properly-managed grazing, and that the drawdown potential of
 3 North American rangelands and pasturelands is 800 million tons (megatonnes)
 of carbon per year (800 MtC/yr).

4 Most interestingly, the authors show that if crop production were replaced
 5 with well-managed grazing the greenhouse gas emissions of agriculture would
 6 actually decline. Teague, W. R., Apfelbaum, S., Lal, R., Kreuter, U. P.,
 Rowntree, J., Davies, C. A., R. Conser, M. Rasmussen, J. Hatfield, T. Wang,
 F. Wang, Byck, P. (2016). The role of ruminants in reducing agriculture's
 7 carbon footprint in North America. *Journal of Soil and Water Conservation*,
 71(2), 156-164. doi:10.2489/jswc.71.2.156
<http://www.jswconline.org/content/71/2/156.full.pdf.html>

9 *University of Georgia study, May 2015: Finds 3.6 tons of carbon per acre per
 10 year (3.6 tC/ac/yr) drawdown following a conversion from row cropping to
 11 regenerative grazing. <https://news.uga.edu/farmland-management-changes-boost-carbon-sequestration-rates-0515/>

12 *May 2019, study of Georgia farm (White Oak Pastures in Bluffton, GA)
 13 shows well-managed beef operation having negative carbon footprint:
<https://www.prnewswire.com/news-releases/study-white-oak-pastures-beef-reduces-atmospheric-carbon-300841416.html>

14 * *Nature* article, April 2015, summarizing studies showing carbon
 15 sequestration in ag soils from good management, including management-
 16 intensive grazing. Machmuller, M. B., Kramer, M. G., Cyle, T. K., Hill, N.,
 Hancock, D., & Thompson, A. (2015). Emerging land use practices rapidly
 17 increase soil organic matter. *Nature Communications*, 6, 6995.
 doi:10.1038/ncomms7995 <https://www.nature.com/articles/ncomms7995>

18 * 2018 study by Michigan State University finds that well-managed grassfed
 19 cattle sequester enough carbon in soils to offset all of their GHG emissions
 20 (including methane), i.e. 1.5 tons of carbon per acre per year (1.5 tC/ac/yr)
 21 drawdown. Stanley, P. L., Rowntree, J. E., Beede, D. K., DeLonge, M. S., &
 Hamm, M. W. (2018). Impacts of soil carbon sequestration on life cycle
 22 greenhouse gas emissions in Midwestern USA beef finishing systems.

23 Agricultural Systems, 162, 249-258.
 doi:<https://doi.org/10.1016/j.aggsy.2018.02.003>

24 Finally, while we recognize it's not central to the National Park Services
 25 decision-making process, it should be noted that Seashore ranches are
 26 providing exceptionally wholesome, nutrient rich foods at a moment in history
 27 when they are desperately needed. Our nation's healthcare system is literally
 28 collapsing under the strain of a population that is plagued with diet-related
 diseases. Meat, milk, yogurt, cheese and eggs are among the most
 nutritionally valuable foods. Almost a century ago, in his seminal work,

1 Nutrition and Physical Degeneration (originally published in 1939, 23d
 2 printing, 2009), Dr. Weston Price, meticulously documented how humanity's
 3 adoption of processed foods and abandonment of traditional foods - especially
 4 those from animals - was leading to widespread declines in human health.
 5 Modern Americans increasingly depend on pills, powders and potions for
 6 their nutrients. In contrast, beef, (especially organ meats), butter, milk, yogurt,
 7 and cheese are exceptionally nutrient rich foods that support vibrant health.
 8 More specifically, all of the dairies in the Seashore are organic and grass-
 9 based; many of the meat and egg operations are grassfed. Grass-based meat,
 10 dairy, and eggs, such as those produced in the Seashore, are rich in vitamin
 K2, a nutrient found only in animal-based foods where animals are raised on
 grass. Today, K2 is extremely scarce in foods due to our nation moving
 animals off pastures into confinement systems. The absence of K2 in our diets
 has contributed to high levels of many serious health problems in our
 population, including heart disease and osteoporosis. (For more on this topic,
 see: Dr. Kate Rheaume-Bleue's groundbreaking book *Vitamin K2 and the
 Calcium Paradox* (2013), and Dr. Cate Shanahan's *Deep Nutrition* (2016)).

11 Conclusion

12 For these and many other reasons, we urge that the General Management Plan
 13 Amendment reflect a National Park Service commitment to the long-term
 14 continuation and support of the Seashores ranches. Remember, It's not the
 COW, it's the HOW.

15 29. In September 2021, NPS issued a decision (2021 ROD) that updated the Seashore's
 16 general management plan to authorize continued ranching for at least the next 20 years, and
 17 potentially much longer, by the existing ranching families on the Seashore, on most or all of the
 18 ranches within the Seashore's Pastoral Zone.

19 30. Because the 2021 ROD was a "federal activity", the federal Coastal Zone
 20 Management Act, 16 U.S.C. § 1456(c)(1), required NPS to obtain the California Coastal
 21 Commission's concurrence that the 2021 ROD was consistent to the maximum extent practicable
 22 with the California Coastal Act. The California Coastal Commission concurred, with conditions
 23 (mainly related to water quality issues). In reaching this conclusion, the California Coastal
 24 Commission noted that the California Coastal Act supports continued agricultural uses in the coastal
 25 zone, and that converting ranch lands to other uses would raise "concerns" under the California
 26 Coastal Act:

27 Maintaining existing, long-standing ranch operations is consistent with the
 28 Coastal Act's policies that prioritize agricultural uses and seek to maintain

1 agricultural economies. Alternatively, removal of all ranch operations in the
 2 [General Management Plan Amendment] planning area would result in a
 3 significant, negative spillover effect on the agricultural economy of Marin
 4 County, particularly for the dairy-related component. In such a case,
 5 agricultural products would no longer be available from ranches within the
 6 GMPA, and agricultural-related businesses elsewhere in Marin County would
 7 no longer be supported by the ranches on the GMPA. Converting these ranch
 lands to other uses would also raise concerns with [California Public
 Resources Code] Section 30242's requirement that lands suitable for
 agricultural use not be converted to nonagricultural uses except in limited
 circumstances.

8 31. In January 2022, a lawsuit was filed to challenge the 2021 ROD. (2022 Suit.) The
 9 Nimans were not parties to that lawsuit. *Resource Renewal Institute v. National Park Service* (N.D.
 10 Cal. No. 3:22-cv-145).

11 32. In January 2025, all of the ranchers in the Seashore except the Nimans and one other
 12 family (Departing Ranchers) executed private, confidential agreements with The Nature
 13 Conservancy to leave the Seashore by 2026 in exchange for consideration specified in the
 14 agreements. This suit does not challenge those agreements.

15 33. On or about that same time, NPS also entered into an agreement with the parties to
 16 the 2022 Suit (which did not include the Nimans) to settle that litigation. (2025 NPS Settlement.)
 17 That settlement contemplated NPS issuing a new decision to replace the 2021 ROD.

18 34. The 2025 NPS Settlement was not entered as a consent decree or other order of any
 19 court.

20 35. NPS approved the new decision contemplated in the 2025 NPS Settlement on January
 21 6, 2025. (2025 ROD.) The 2025 ROD replaced the 2021 ROD.

22 36. NPS did not seek or obtain the California Coastal Commission's concurrence under
 23 the Coastal Zone Management Act for the 2025 ROD.

24 37. The 2025 ROD decided to redesignate the lands farmed by the Departing Ranchers
 25 in the Pastoral Zone as a new "Scenic Landscape" zone where ranching or other agricultural
 26 activities would not be allowed.

27 38. The 2025 ROD did not propose to offer the lands farmed by the Departing Ranchers
 28 for lease as authorized by 16 U.S.C. § 459c-5(a).

39. The 2025 ROD did not select any of the alternatives considered in the 2020 EIS.

40. NPS did not conduct any further environmental review under the National Environmental Policy Act in support of the 2025 ROD.

41. NPS did not study the alternative of leasing the lands formerly ranched by the Departing Ranchers to others for continued agricultural or ranching operations, even though that alternative is authorized by 16 U.S.C. § 459c-5(a), and consistent with Congressional purpose.

42. NPS did not offer any opportunity for general public comment, or for comment by the Nimans in particular, or publish it as rulemaking in the Federal Register, before issuing the 2025 ROD.

43. The 2025 ROD affects the Nimans' interests. The 2025 ROD will only allow the Nimans to continue operating if they enter into new "Ranch Operating Agreements" (ROAs) that are required to contain restrictions that the Nimans were not consulted on and to which they object. For example, the ROAs are required to contain restrictions on the number of animals at levels that will make continued ranching economically difficult if not entirely nonviable. The ROAs are also required to contain restrictions, including on composting and cover cropping, that will make regenerative agriculture practices such as those practiced by the Nimans (or that they wish to practice) difficult if not entirely impossible.

44. The 2025 ROD also contains no real management plan for tule elk in Point Reyes. Tule elk present resource conflicts with cattle, including conflicts over fencing, water, forage, and diseases carried by the elk and transmissible to cattle, which have been largely managed in Point Reyes by keeping the elk out of the pastoral zone. But the 2025 ROD now proposes no meaningful restrictions or management measures for tule elk in the ranching areas of Point Reyes. If ranching is to survive in the Seashore, and on the Nimans' ranch, tule elk need to be properly managed.

Administrative Procedure Act

45. Pursuant to the Administrative Procedure Act, a court must set aside agency action that: (a) fails to meet statutory, procedural, or constitutional requirements, or (b) is arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law. 5 U.S.C. § 706(2)(A)-(D).

46. Section 706(1) of the Administrative Procedure Act authorizes a court to “compel agency action unlawfully withheld or unreasonably delayed”.

47. Section 704 of the Administrative Procedure Act states that “[a]gency action made reviewable by statute and final agency action for which there is no other adequate remedy in a court are subject to judicial review.” 5 U.S.C. § 704.

48. Section 702 of the Administrative Procedure Act provides a federal law cause of action to “[a] person suffering legal wrong because of agency action, or adversely affected or aggrieved by agency action”. 5 U.S.C. § 702.

49. Plaintiffs are entitled to relief under the Administrative Procedure Act as follows.

CAUSES OF ACTION

COUNT 1: VIOLATION OF NEPA AND THE APA (INADEQUATE CONSIDERATION OF RANCHING ALTERNATIVES)

50. Plaintiffs repeat and incorporate by reference the allegations contained in paragraphs 1 - 49 of this complaint.

51. The National Environmental Policy Act (NEPA), 42 U.S.C. §§ 4321 *et seq.*, declares, among other things, “a national policy which will encourage productive and enjoyable harmony between man and his environment,” §4321.

52. NEPA requires a “detailed statement” (now referred to as an “environmental impact statement” or “EIS”) to be prepared for “major Federal actions significantly affecting the quality of the **human environment**”. 42 U.S.C. § 4332(2)(C) (emphasis added). The EIS must include discussion of “a reasonable range of alternatives to the proposed agency action”. 42 U.S.C. § 4332(2)(C)(iii). The Park Service’s actions complained of in this complaint constitute major Federal actions significantly affecting the quality of the human environment, but the Park Service did not prepare an adequate environmental impact statement, including analysis of a reasonable range of alternatives.

53. The 2025 ROD is a major federal action significantly affecting the quality of the human environment, including because it significantly changes the land uses humans have made in Point Reyes for nearly 200 years, which will have significant and negative consequences for the

1 human and natural environment of Point Reyes and beyond. The removal of most grazing in the
 2 pastoral zone also changes the human environment for the many thousands of Seashore visitors
 3 annually, and for the Nimans, who benefit from and enjoy the presence of grazing in the Pastoral
 4 Zone of the Seashore.

5 54. “[W]here changed circumstances affect the factors relevant to the development and
 6 evaluation of alternatives,” NEPA requires that the federal agency “must account for such change in
 7 the alternatives it considers.” *Sierra Forest Legacy v. Rey*, 577 F.3d 1015, 1021 (9th Cir. 2009).

8 55. The decision by the Departing Ranchers to voluntarily cease their operations is a
 9 change in circumstances relevant to the development and evaluation of alternatives for the Seashore.
 10 Congress authorized the Secretary of Interior to lease the Seashore first to the ranchers who were
 11 there when the Seashore was created, including the Departing Ranchers, but also authorized the
 12 Secretary of Interior to lease the Seashore to others should those ranchers opt out. 16 U.S.C. § 459c-
 13 5(a). The Departing Ranchers have now opted out. The Secretary of Interior is now authorized by
 14 statute to lease those lands to others (which could include Plaintiffs, who would be interested in
 15 leasing at least some of those lands). But NPS did not consider the reasonable—and Congressionally
 16 authorized—alternative of leasing those lands to others, in the 2020 EIS, the 2025 ROD, or
 17 anywhere else. NPS also did not consider leasing those lands in such a way as to allow the
 18 sustainable, regenerative ranching practices Plaintiffs wish to practice and wish to see practiced on
 19 Point Reyes.

20 56. NPS’s inclusion of restrictions on Plaintiffs’ existing ranching operations will
 21 effectively end ranching in Point Reyes by making ranching uneconomic. In authorizing continued
 22 ranching in Point Reyes, Congress did not intend for Defendants to do so in a way that will
 23 effectively end ranching.

24 57. NPS’s omission, in the 2025 ROD, of any study of the reasonable and
 25 Congressionally authorized alternative of leasing the lands of the Departing Ranchers to others, and
 26 so as to allow the sustainable, regenerative, economically viable ranching practices Plaintiffs wish to
 27 practice and wish to see practiced on Point Reyes, violated NEPA and is therefore contrary to law
 28 and arbitrary and capricious and an abuse of discretion under the Section 706(2) of the APA.

1 58. The 2025 ROD should be set aside as it pertains to Point Reyes.

2 **COUNT 2: VIOLATION OF PARK SERVICE REGULATIONS (FAILURE TO**
 3 **UNDERTAKE NOTICE-AND-COMMENT RULEMAKING FOR 2025 ROD)**

4 59. Plaintiffs repeat and incorporate by reference the allegations contained in paragraphs
 5 1 - 49 of this complaint.

6 60. “In 1983, the NPS revamped its regulations and added a new provision to require
 7 notice-and-comment procedures before any ‘highly controversial’ closure or opening of NPS land or
 8 before any such action that would have a major impact on visitor-use patterns. Specifically, this
 9 provision required a notice-and-comment procedure before ‘a closure, designation, use or activity
 10 restriction or condition, or the termination or relaxation of such, which is of a nature, magnitude and
 11 duration that will result in a significant alteration in the public use pattern of the park area ... or is of
 12 a highly controversial nature.’ 36 C.F.R. 1.5(b).” *United States v. Barley*, 405 F.Supp.2d 1121, 1124
 13 (N.D. Cal. 2005).

14 61. The 2025 ROD is highly controversial.

15 62. The 2025 ROD contains a closure, designation, use or activity restriction, or the
 16 termination or relaxation of such, including the closure of historic ranching and agricultural lands to
 17 those uses.

18 63. The 2025 ROD will result in a significant alteration in the public use pattern of Point
 19 Reyes.

20 64. Defendants did not conduct any notice-and-comment procedures, such as publishing a
 21 rulemaking in the Federal Register, before adopting the 2025 ROD.

22 65. Defendants’ failure to follow the procedures required by law before adopting the
 23 2025 ROD was arbitrary, capricious, or otherwise not in accordance with the law.

24 66. The 2025 ROD should be set aside as it pertains to Point Reyes.

25 **COUNT 3: VIOLATION OF 1976 TULE ELK LAW AND APA**

26 67. Plaintiffs repeat and incorporate by reference the allegations contained in paragraphs
 27 1 - 49 of this complaint.

28 68. The 1976 tule elk law, Pub. L. 94-389, authorized the reintroduction of tule elk into

1 Point Reyes under certain conditions.

2 69. Many commenters during the EIS process urged Defendants to adopt a robust
 3 management plan for the tule elk in Point Reyes that protects the health of the elk while avoiding
 4 conflicts with farmers and ranchers.

5 70. Section 2 of that law requires that tule elk herds in California be managed for their
 6 “preservation” and “consistent with Federal law.”

7 71. NPS currently has no plan for how to manage tule elk to ensure their preservation. To
 8 date, NPS has allowed tule elk, which currently have no natural predators in Point Reyes, to suffer
 9 through unnatural and cruel boom-and-bust population cycles. The tule elk in Point Reyes are also
 10 known to be infected with Johnes disease, which is fatal and which can be transmitted to cattle
 11 (potentially including those owned by the Nimans). NPS has no plan for how to manage tule elk at
 12 sustainable and disease-free levels in Point Reyes.

13 72. Federal common law prohibits the federal government from creating a public
 14 nuisance, including “the keeping of diseased animals” and the allowance of passage by wild animals
 15 through federal facilities in a manner that causes damage to others. *Michigan v. U.S. Army Corps of*
16 Engineers, 667 F.3d 765, 768, 771 (7th Cir. 2011); *National Sea Clammers Ass'n v. City of New*
17 York (3d Cir. 1980) 616 F.2d 1222, 1233–1235, *vacated sub nom on preemption grounds not*
18 applicable here, *Middlesex County Sewerage Authority v. National Sea Clammers Ass'n* (1981) 453
 19 U.S. 1.

20 73. Failing to manage wild animals, including those carrying disease, would also be a
 21 nuisance under California law and under Marin County law.

22 74. NPS’s failure to create a management plan to manage the tule elk, including tule elk
 23 known to be diseased, so as to prevent damage to others, including the Nimans’ cattle herds, is a
 24 public nuisance.

25 75. The Court should compel NPS to develop a management plan for tule elk to prevent
 26 nuisance and ensure their preservation as required by the 1976 tule elk law, under Section 706(1) of
 27 the APA.

28 76. Section 3 of the 1976 tule elk law requires the Secretary of the Interior, by March 1 of

1 each year, to submit a report to Congress on the estimated size and condition of the various tule elk
 2 herds in California and the nature and condition of their respective habitats. Those reports must
 3 include the Secretary's recommendations as to what Federal actions, if any, should be taken in order
 4 to preserve the tule elk herds at the then-existing level or such other level as may be determined from
 5 time to time by the State of California.

6 77. The Secretary of the Interior has not submitted annual reports each year as required
 7 by Section 3. Plaintiffs have been able to locate only two such reports, the last of which was
 8 submitted in 1992.

9 78. The 2025 ROD's decisions with respect to tule elk are not based on the Secretary's
 10 recommendations as to what Federal actions, if any, should be taken in order to preserve the tule elk
 11 herds at the then-existing level or such other level as may be determined from time to time by the
 12 State of California.

13 79. The 2025 ROD's decisions with respect to tule elk are arbitrary and capricious and
 14 should be set aside, under Section 706(2) of the APA.

15 80. The 2025 ROD should be set aside as it pertains to Point Reyes.

COUNT 4: VIOLATION OF COASTAL ZONE MANAGEMENT ACT AND APA

16 81. Plaintiffs repeat and incorporate by reference the allegations contained in paragraphs
 17 1 - 49 of this complaint.

18 82. The Coastal Zone Management Act, 16 U.S.C. § 1456(c)(1)(A), requires that "Each
 19 Federal agency activity within or outside the coastal zone that affects any land or water use or
 20 natural resource of the coastal zone shall be carried out in a manner which is consistent to the
 21 maximum extent practicable with the enforceable policies of approved State management
 22 programs." Federal agencies carrying out activities regulated by the Coastal Zone Management Act
 23 must "provide a consistency determination to the relevant State agency designated under section
 24 1455(d)(6) of this title at the earliest practicable time, but in no case later than 90 days before final
 25 approval of the Federal activity unless both the Federal agency and the State agency agree to a
 26 different schedule." 16 U.S.C. § 1456(c)(1)(C).

27 83. The 2025 ROD is a Federal agency activity outside California's coastal zone that

affects land or water uses or natural resources within California's coastal zone. Specifically, the 2025 ROD affects agricultural land uses within California's coastal zone, as the California Coastal Commission found with respect to the 2021 ROD.

84. The California Coastal Act and the Marin County Local Coastal Program are the enforceable policies of approved State management programs with respect to the affected portion of California's coastal zone.

85. The 2025 ROD is not consistent to the maximum extent practicable with those enforceable policies, including the agricultural-protection-policies cited by the Coastal Commission in its review of the 2021 ROD.

86. The 2025 ROD's inconsistency harms Plaintiffs' interests in ensuring that agriculture is protected not just in Point Reyes but in the surrounding lands of California's Coastal Zone in Marin County as well.

87. The California Coastal Commission is the relevant State agency for purposes of the Coastal Zone Management Act for the 2025 ROD.

88. Defendants did not provide a consistency determination to the California Coastal Commission at least 90 days in advance. Defendants and the California Coastal Commission did not agree to a different schedule. Defendants kept the 2025 ROD secret until it was publicly released.

89. The 2025 ROD is arbitrary and capricious under Section 706(2) of the APA, because it was made without first complying with the Coastal Zone Management Act.

90. The 2025 ROD should be set aside as it pertains to Point Reyes.

PRAYER FOR RELIEF

Wherefore, Plaintiffs respectfully request that this court:

1. Set aside the 2025 ROD as it pertains to Point Reyes;
 2. Order Defendants to analyze the alternative of leasing the lands in Point Reyes used by the Departing Ranchers to other farmers and ranchers, on conditions that allow for economically and environmentally sustainable farming and ranching operations;
 3. Order Defendants to develop a management plan for tule elk that ensures the preservation of the tule elk and the prevention of nuisance;

- 1 4. Award Plaintiffs their costs and attorneys fees; and
2 5. Any other relief as the Court may award.

3

4 DATED: February 25, 2025

BRISCOE IVESTER & BAZEL LLP

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7 By: _____



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9 Attorneys for Plaintiffs
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11 NIMAN

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